DOCKET FILE COPY ORIGINAL

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Application by Verizon for Authorization	)	
Under Section 271 of the Communications	)	
Act to Provide In-Region, InterLATA	)	CC Docket No. 01-324
Services in the State of Rhode Island and	)	
Providence Plantations	)	
	)	

COMMENTS OF WORLDCOM, INC. ON THE APPLICATION BY VERIZON FOR AUTHORIZATION TO PROVIDE IN-REGION, INTERLATA SERVICES IN RHODE ISLAND

Keith L. Seat
WORLDCOM, INC.
1133 19th St., N.W.
Washington, D.C. 20036

(202) 887-2993

December 17, 2001

No. of Copies rec'd 0+5
List ABCDE

INTRODUCTION AND EXECUTIVE SUMMARY

Ever seeking to lower the bar for section 271 entry, Verizon urges the Commission to approve its application for Rhode Island based on unbundled network element ("UNE") rates that are not yet in effect, and that are not as low as even the current rates in Massachusetts and New York. More importantly, however, Verizon seeks to rely on switching rates in New York and Massachusetts that are known to be excessive, and that those state commissions are in the process of revising downward to be closer to total element long run incremental cost ("TELRIC"). This is not a theoretical exercise for WorldCom, for it is these excessive UNE rates that prevent WorldCom from being able to bring local competition to the consumers of Rhode Island, just as they continue to block WorldCom from entering the local residential market in Massachusetts.

Pricing is the single critical issue in Rhode Island for WorldCom. We do not raise operational support system ("OSS") issues or other concerns in these comments, because we are unable to enter the market and have no body of evidence to contradict Verizon's claim that its OSS is one unified system that operates uniformly throughout the New England region. As a practical matter, until pricing is fixed the rest is moot.

Verizon has pricing problems in Rhode Island with both of the most important network elements required for local competition – switching and loops. The Rhode Island Public Utilities Commission ("PUC") itself found numerous TELRIC problems with Verizon's rates, but has not required Verizon to correct these problems prior to receiving the PUC's endorsement. Instead, on the critical element of switching, the PUC has been willing to accept Verizon's initial

proposal for switch usage rates in the ongoing Massachusetts cost case, even though that opening bid is far too high and has not been scrutinized or accepted even by the Massachusetts Commission.

The PUC accepted Verizon's Massachusetts proposal based on the fact that it is nominally a little lower than the existing switch usage rate in Massachusetts or New York. But looking only at the usage rate ignores the fact that the switch port is far more expensive in Rhode Island than Massachusetts or New York. So the proposed Massachusetts rate results in a notably higher switching rate in Rhode Island than currently exists in Massachusetts or New York even when relative costs are considered.

But the need for adjustment to bring Rhode Island in line with the existing levels in Massachusetts and New York misses the more important point. The current switching rates in New York and Massachusetts are themselves far too high, and are recognized to be too high. They are simply the wrong rates on which to grant further interLATA entry in the Verizon region, notwithstanding the Commission's Massachusetts Order (and our pending appeal). Nor should the Commission take any comfort from the PUC's intention to begin a new pricing case in the Spring. Pricing cases are not quick and the outcome is uncertain. The state commissions in both New York and Massachusetts are working to improve their rates, but after lengthy deliberations the New York Administrative Law Judge's ("ALJ's") Recommended Decision that cuts Verizon's switching rates dramatically still has not been implemented.

If Verizon is not willing to wait in Rhode Island until the completion of the new price case set to begin in the Spring in order to correct the various TELRIC errors that the PUC has

identified, Verizon should adopt in Rhode Island the revised UNE rates of the New York ALJ, or be expressly required to adopt any subsequent decreases in UNE rates in New York, as a suitable proxy for TELRIC rates. The rates recommended by the New York ALJ would permit residential competition to develop in Rhode Island and other New England states for the benefit of consumers and to fulfill the Telecommunication Act's goals. But until Verizon's pricing problems are resolved, its application for Rhode Island must be denied.

TABLE OF CONTENTS

TABLE OF ATTACHMENTS

TAB	DECLARANT	SUBJECT
A	Declaration of Chris Frentrup	Pricing

TABLE OF CITATION FORMS

FCC Orders	
Arkansas-Missouri Order	In re Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of The Telecommunications Act of 1996 to Provide In-region, InterLATA Services in Arkansas and Missouri, CC Docket No. 01-194, Memorandum Opinion and Order, FCC 01-338 (rel. Nov. 16, 2001).
Kansas-Oklahoma Order	In re Application of SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma, CC Docket No. 00-217, Memorandum Opinion and Order, FCC 01-29 (rel. Jan. 22, 2001), petition for review filed, Sprint Communications Co. v. FCC, No. 01-1076 (D.C. Cir. filed Feb. 16, 2001)
Local Competition Order	In re Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket Nos. 96-98 & 95-185, First Report and Order, 11 F.C.C.R. 15499 (1996).
Massachusetts Order	In re Application of Verizon New England Inc., Bell Atlantic Communications Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d//b/a Verizon Enterprise Solutions), And Verizon Global Networks Inc., For Authorization to Provide In-Region, InterLATA Services in Massachusetts, CC Docket No. 01-9, Memorandum Opinion and Order, 16 F.C.C.R. 8988 (2001).
Michigan Order	In re Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in Michigan, CC Docket No. 97-137, Memorandum

	Opinion and Order, 12 F.C.C.R. 20543 (1997).
FCC Orders	
Pennsylvania Order	In re Application of Verizon Pennsylvania Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc. for Authorization to Provide In-region, InterLATA Services in Pennsylvania, CC Docket No. 01-138, Memorandum Opinion and Order, FCC 01-269 (rel. Sept. 19, 2001).
USF Tenth Report and Order	In re Federal State Joint Board on Universal Service, CC Docket No. 96-45 & 97-160, Tenth Report and Order, 14 F.C.C.R. 20156 (1999).
State Commission Orders	
PUC Order No. 16793	In re Review of Bell Atlantic-Rhode Island TELRIC Study, Docket No. 2681, Report and Order No. 16793 (R.I. Pub. Utils. Comm'n Nov. 18, 2001) (VZ-RI App. F, Tab 34).
Declarations and Affidavits	
Frentrup Decl.	Declaration of Chris Frentrup on Behalf of WorldCom (Tab A hereto)

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Application by Verizon for Authorization	)	
Under Section 271 of the Communications	)	
Act to Provide In-Region, InterLATA	)	CC Docket No. 01-324
Services in the State of Rhode Island and	)	
Providence Plantations	)	
	)	

COMMENTS OF WORLDCOM ON THE FAILURE OF VERIZON'S APPLICATION FOR RHODE ISLAND TO MEET VERIZON'S BURDEN OF PROVING THAT IT HAS SATISFIED CHECKLIST PRICING REQUIREMENTS

Verizon's switching and loop rates in Rhode Island are infected by numerous TELRIC errors, many of which were identified by the Rhode Island PUC, and cannot be justified based on a comparison to current Massachusetts and New York rates which are themselves far too high. Verizon fails to meet checklist item two, 47 § U.S.C. 271(c)(2)(B)(ii), which imposes on Verizon the burden of proving that it has made available unbundled network elements at just, reasonable and non-discriminatory prices based on the costs of the elements.

While differences in network costs among states mean that cost-based wholesale rates will vary somewhat, the FCC has made clear that states are not free to approve rates at any level they choose as long as they call them "TELRIC." "[I]t is not the label that is critical in making our assessment of checklist compliance, but rather what is important is that price reflect TELRIC

principles and result in fact in reasonable, procompetitive prices." Michigan Order ¶ 290.[1] A rate falls within a reasonable range to the extent any departure from the norm can be explained by specific relevant conditions in the state. "Reasonable range" is not the same as "anything goes."

The Commission has made clear that checklist compliance is not a sterile, academic exercise, but a legislative test to assure that local markets are open for competition. The Commission adopted TELRIC precisely "to expedite the development of fair and efficient competition." Local Competition Order ¶ 618.

By definition, "cost-based" rates must be supported by cost studies proving that the rates are derived from the forward-looking cost of providing the leased elements, taking into account the particular circumstances present in each state. The Commission has specifically stated that it expects "a BOC to include in its application detailed information concerning how unbundled network element prices were derived." Michigan Order ¶ 291 (footnote omitted). Rates cannot be proved to be "based on cost" unless there is some way to compare those rates with the BOC's underlying network costs. Moreover, in addition to the technical analysis provided by supporting cost studies, the Commission has found relevant comparisons with rates and inputs in other states, Kansas-Oklahoma Order ¶¶ 82, 87, as well as comparisons to the costs that are computed in the Commission's own Synthesis Model used for setting the universal service subsidy. Id. ¶¶ 80, 84; Pennsylvania Order ¶ 65.

---

[1] Full citations for the authorities included in these comments are included in the Table of Citation Forms.

The Commission is expressly prohibited from granting a section 271 application unless it has determined whether a BOC has met the requirements for interLATA in-region entry, including the requirement of cost-based pricing of unbundled network elements. See 47 U.S.C. § 271(d)(3)(A). Section 271 also establishes the level of deference the Commission owes to other agencies' review. The Commission is required to consult with the Attorney General and to give "substantial weight" to DOJ's evaluation. See id. § 271(d)(2)(A). The Commission is also required to consult with the applicable state commission, but does not owe any particular deference to its views. See id. § 271(d)(2)(B). The Commission has therefore acknowledged that it has the exclusive responsibility for determining checklist compliance (Michigan Order ¶ 282), a conclusion also reached by the D.C. Circuit (SBC Communications v. FCC, 138 F.3d 410, 416-17 (D.C. Cir. 1998)).

Verizon's switching and loop UNE rates exceed TELRIC levels and are not reasonable. Even though Verizon is expected to cut its switch usage rates to the level it proposed for those rates in Massachusetts, the total cost of switching, which includes both usage and port, will still remain well above TELRIC levels. Frentrup Decl. ¶ 22. The Rhode Island Commission has itself identified specific inputs used in setting loop and switching rates that make the rates too high, and so has directed a cost case to begin in the Spring of 2002. But the Commission cannot rely on future cost cases to approve current UNE rates and grant interLATA authority now. As shown in both New York and Massachusetts,[2] good intentions about future cost cases are a long

[2] UNE rates in Massachusetts remain so high compared to retail local rates that no competitor can broadly enter Massachusetts using UNEs. In New York, even though competitors have entered at least part of the state based on

way from UNE rates that will permit robust competition today. Until input errors, including those found by the Rhode Island PUC, are corrected and rates reduced to appropriate levels, it would be arbitrary and capricious for the Commission to grant Verizon's section 271 application.

I. VERIZON'S SWITCHING RATES ARE IMPROPER

Switching is a crucial input for local competition, but both the UNE rates for switching in place today and those that Verizon is expected to adopt by February 2002 are unreasonably high and are not cost-based.

A. Verizon's Switching Rates Are Not at TELRIC Levels

Verizon initially set its switching rates in Rhode Island using the Switching Cost Information System ("SCIS") model. In reviewing those rates, the Rhode Island PUC correctly identified several errors in the inputs that Verizon used, which are discussed below. WorldCom is unable to quantify the precise effect of these problems because Verizon has withheld the information required to make such calculations. Frentrup Decl. ¶ 11. But it is clear that there are substantial problems with the model and the inputs used for the development of switching costs that have resulted in rates that are excessive. These problems are not resolved by the reduction in usage rates that Verizon has proposed in the Massachusetts cost case.

---

generous retail rates, high UNE rates have prevented consumers from receiving all the benefits that competition would otherwise deliver in the form of competitive local-long distance bundled services. Not facing similar costs, Verizon has been able to capture more than 30% of the residential long distance market in New York.

Material Costs

The switch material costs used by Verizon in the SCIS model are significantly higher than other switch material costs introduced in the state record. The PUC required Verizon to show why those other switch material costs should not be adopted, but only in future TELRIC filings, rather than correcting the problem now.[3] However, Verizon should be required to immediately revise its UNE switching rates to reflect the correct material costs, and resolve the legitimate concerns raised by the PUC. Frentrup Decl. ¶ 7.

Switch Vendor Discounts

Verizon's excessive material cost error is compounded by Verizon's failure to use the appropriate discount from the list price for switches. Verizon used only the smaller discount reflected in its contracts for purchases of growth switches, rather than the much larger discount applicable to new switches. In the development of the Synthesis Model in the FCC's universal service proceeding, the Commission determined that it should rely only on the initial switch vendor discounts – the very substantial discount that a Bell Operating Company ("BOC") typically receives when it purchases a new switch – and expressly rejected reliance on switch growth discounts.[4] This was appropriate, the Commission concluded, because initial switch purchases reflected cost-effective forward-looking technologies. USF Tenth Report and Order ¶ 317. The Rhode Island PUC determined that the appropriate discount would be 90% new and

[3] PUC Order No. 16793 at 36 (VZ-RI App. F, Tab 34).

[4] Although the Commission previously indicated that the Synthesis Model should not be used to determine rate levels for unbundled network elements, the Commission has stated that the Synthesis Model can be used to compare the relative differences in costs between states. Massachusetts Order ¶ 40.

10% growth switches, but then failed to require Verizon to revise its rates immediately to reflect this important discount.[5] Frentrup Decl. ¶ 8.

In setting UNE rates, other states have taken various approaches, with some states following the FCC and using only initial switch discounts, while most have used some weighted average of the initial and growth switch discounts.[6] A federal court concluded that state commissions should use the initial switch discount in establishing unbundled switching rates in Bell Atlantic-Delaware, Inc. v. McMahon, 80 F. Supp. 2d 218, 236-39 (D. Del. 2000).

It is impossible to determine the amount by which switch costs are inflated by Verizon's use of the growth discount alone, because Verizon has not reported this input in its filing. It is clear, however, that using only the lower growth discount is not consistent with TELRIC principles.

Installation Factor

In addition to inflated switch material costs (from both excessive costs and inadequate discounts), Verizon also overstates the costs of installing the switches. Verizon added 62% of the material costs of the switch to cover installation costs, based on its own experience in 1995. These installation costs reflected Verizon's practice of installing its own switches, rather than the more common and economical practice of having the switch vendor handle the installation. The

---

[5] See PUC Order No. 16793 at 35 (VZ-RI App. F, Tab 34).

[6] The Commission is aware from the record developed in Texas that the switch vendor discount used by the Texas Public Utilities Commission was approximately 70%. In addition, in the Massachusetts section 271 proceeding, Verizon eventually permitted WorldCom to provide the Commission with evidence of the very large New York switch discounts that are on the record as part of the current New York state proceeding to correct switching rates in New York. On April 5, 2001, WorldCom submitted that information in a proprietary ex parte submission in Docket No. 01-9.

Rhode Island PUC recognized that Verizon overstated this factor, and ordered Verizon to provide the installation factors for all Verizon companies in future TELRIC filings, to allow the PUC to assess the reasonableness of the factor used.[7] Despite this concern over the incorrect installation factor used by Verizon, the PUC did not require Verizon to revise its switch installation factor immediately. Frentrup Decl. ¶ 9.

Even if Verizon had used correct material costs for its switches, its use of an inflated installation factor of over 60% would significantly overstate switch costs. Of course, as shown above, the switch material costs are also seriously overstated, which means that applying an installation multiplier to those inflated material costs further overstates the switch costs. In short, Verizon's cost of switching is overstated in two ways – applying an installation factor that is too large to a base of material costs that is too large. Unfortunately, despite acknowledging these facts, the PUC has not required Verizon to correct these errors before giving its section 271 endorsement. Frentrup Decl. ¶ 10.

WorldCom is unable to quantify the effect of correcting these errors because Verizon has not provided in the record in this proceeding the electronic versions of its cost models, nor the inputs it used in those models. Without access to that information, we cannot provide revised cost outputs from the model. Frentrup Decl. ¶ 11.

B. Verizon's Proposed Reduction in Switch Usage Rates Does Not Make Its Switching Rates TELRIC-Compliant

Apparently recognizing that its switching rates are excessive for the reasons discussed

[7] PUC Order No. 16793 at 36 (VZ-RI App. F, Tab 34).

above, Verizon agreed to reduce its switch usage rates to the level that it has proposed in Massachusetts. However, these reductions are not sufficient to bring Verizon's switching rates down to TELRIC levels, nor have they yet taken effect. Frentrup Decl. ¶ 12. Verizon has made no showing that its pending switch usage reduction is equivalent – or even close – to the reduction that would occur if it were to correct the problems identified by the PUC. Nor has it made available to the Commission or other interested parties in this proceeding its inputs and SCIS model to allow a determination of the effect of correcting those problems. Until it does so, Verizon cannot assert that its new switch usage rate is correct. Frentrup Decl. ¶ 13. In fact, it is clear from the degree by which it exceeds the analysis of the New York ALJ that the new rate is not close to TELRIC levels. Frentrup Decl. 15, Table 1.

Furthermore, Verizon's rates are indisputably incorrect because it has made no adjustment to its switch port rate. The switch usage and port rates were set using the same model and inputs, so the errors that resulted in excessive usage rates also caused excessive port rates, which Verizon makes no effort to correct. At $4.15, Verizon's port rate in Rhode Island is about twice the current rates in New York and Massachusetts, and four times the rates in Vermont and New Hampshire. Even with the pending switch usage reductions, the combined port and switch usage rates leave purchasers of UNEs paying a price for switching that is well above TELRIC, and even above the current very high rates in New York and Massachusetts. Frentrup Decl. ¶ 4.

Verizon's justification for not also cutting its port rate is that a loop and a port will always be bought together, and the sum of the loop and port rates in Rhode Island is lower than

the sum of those rates in New York.[8] Verizon's comparison is irrelevant and improper. The Commission has been clear that the reasonableness of loop and non-loop rates are to be considered separately. Pennsylvania Order ¶ 66. Loop and port rates are set using completely different cost models, and there is no connection between the cost levels for loops and switches. Loop rates must be shown to be at TELRIC levels on their own, and the switch usage and port rates must be shown to be at TELRIC levels independent of other UNEs. Frentrup Decl. ¶ 14. In any case, Verizon's argument ignores the TELRIC errors made in setting Rhode Island loop rates (discussed below), as well as the fact that the current loop rates in New York are in the process of being reduced to levels more closely approximating TELRIC.

C. Switching Rates Excessive Compared to New York and Massachusetts

We dispute the view that an irrebuttable presumption arises when UNE rates in the state in issue compare favorably with states previously granted section 271 authorization. Here, however, even with Verizon's pending switch usage rate reduction, the total switching rates – port plus usage – are in fact higher in Rhode Island than they are in New York or Massachusetts, especially after adjusting for the cost differences between the states as measured by the Commission's Synthesis Model.[9] For example, the total cost of switching (usage plus port) in Rhode Island is 10.4% to 16.5% lower than in New York, while rates in Rhode Island are 15.3%

---

[8] See In re Unbundled Local Switching Rates Verizon-Rhode Island's Section 271 Compliance Filing, Docket No. 3363, Order No. 16799, at 4 (R.I. Pub. Utils. Comm'n Nov. 28, 2001). The order can be downloaded at http://www.ripuc.state.ri.us/order/pdfs/VRI271-UNEord16799.pdf.

[9] Indeed, even the new reduced switch usage rates in Rhode Island are higher than the existing high rates in New York when adjusted for relative costs in the states. Frentrup Decl. ¶ 15, Table 1.

higher than in New York.[10] Frentrup Decl. ¶ 15, Table 1. The Commission has again made clear recently that for comparisons between states to be considered valid, the difference in costs must be compared to the difference in rates. Pennsylvania Order ¶ 65. The excessive level of Verizon's switching rates is even more apparent when the pending Rhode Island rates are compared to the rates recommended by the ALJ in New York – Rhode Island rates are 134% higher than New York rates. Similarly, the total switching rate in Rhode Island is 19% above the Massachusetts rate, even though Rhode Island costs are less than 5% above the Massachusetts costs. Thus, even though Verizon is expected to cut its switch usage rates in Rhode Island, the result will still be well above the very high rates that exist in the states Verizon uses for comparison. Frentrup Decl. ¶ 15.

II. VERIZON'S LOOP RATES ARE NOT TELRIC-COMPLIANT

Verizon has several TELRIC problems with the inputs used to determine loop rates. Verizon has not provided the cost models and precise inputs used to develop the loop rates on which it relies in its section 271 application, so it is again not possible to quantify the effect of Verizon's incorrect inputs on rates. However, it is clear that correcting these errors would meaningfully lower loop costs. Until these changes are implemented, Verizon's loop rates remain improperly above TELRIC levels. Frentrup Decl. ¶ 16.

[10] The percent difference depends on whether the comparison is with raw or adjusted Synthesis Model (SM) costs. The raw SM costs are taken directly from the model results from the FCC. The adjusted results remove $3.62 per line of retail overhead, and re-apportion the remaining wholesale overhead among all rate elements, rather than loading them only on the loop as the Synthesis Model does.

Fiber Feeder

First, Verizon assumes use of only fiber cable in the feeder. Although fiber is often the lowest cost, most efficient forward-looking technology, in some cases copper feeder is cheaper, such as when customers are located close to the central office. The Commission's Synthesis Model and other states' loop models all use at least some copper feeder. Frentrup Decl. ¶ 17.

DLC

Verizon fails to use GR-303 compliant digital loop carrier ("DLC") when it uses fiber feeder. As the PUC rightly determined, GR-303 compliant DLC is the forward-looking technology, and should be employed in any cost model used to set TELRIC UNE rates.[11] Verizon's loop cost model used no GR-303 DLC, instead relying on the older universal DLC. Verizon must revise its loop rates to reflect GR-303 DLC before its UNE loop rates can be consistent with TELRIC principles. Frentrup Decl. ¶ 18.

Structure Sharing

Verizon's loop rates also fail to reflect the forward-looking amount of structure sharing that would occur in an efficient network. Rather than recognizing the incentives for greater structure sharing that would occur in a more competitive market, Verizon has apparently relied on its historical sharing levels. The PUC recognized that this is improper and directed that future TELRIC studies should reflect sharing that could be achieved. But the PUC allowed Verizon to set its rates based on its current levels of structure sharing.[12] Clearly, Verizon must adjust the

[11] See PUC Order No. 16793 at 43 (VZ-RI App. F, Tab 34).

[12] Id. at 44-5.

amount of structure sharing assumed in order to be consistent with TELRIC principles, and its UNE loop rates must be recomputed accordingly. Frentrup Decl. ¶ 19.

Fill Factors

Finally, the fill factors assumed by Verizon for fiber and copper cable are unreasonably low, resulting in overstated loop costs. The PUC correctly determined that Verizon's fill factors were too low, but merely required the use of alternative fill factors based on its staff's analysis in any future TERLIC compliance filing.[13] Those fill factors have not yet been incorporated into Verizon's loop rates. Thus, Verizon's loop rates are not compliant with TELRIC principles. Frentrup Decl. ¶ 20.

As in the case of switching rates, WorldCom has not been provided access to the cost models or inputs used to set loop rates in this proceeding. Without this information, we are unable to quantify the effect of changing these inputs. However, it is clear that correcting these errors would notably lower loop rates. Frentrup Decl. ¶ 21.

[13] Id. at 51.

CONCLUSION

Verizon's Rhode Island application should be denied.

Respectfully submitted,

Keith L. Seat
WORLDCOM, INC.
1133 19th St., N.W.
Washington, D.C. 20036

(202) 887-2993

December 17, 2001

CERTIFICATE OF SERVICE

I, Vivian Lee, do hereby certify that copies of the foregoing Comments of WorldCom, Inc. were sent via hand delivered (as indicated) and emailed to the following on this 17th day of December, 2001.

Janice Myles*
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Qualex International*
445 12th Street, SW
Washington, DC 20554

Julie Veach
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Gary Remondino
Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Scott H. Angstreich*
Kellogg, Huber, Hansen, Todd & Evans
Sumner Square
1615 M Street, NW, Suite 400
Washington, DC 20036

Steve Frias
Rhode Island Public Utilities Commission
Division of Public Utilities and Carriers
89 Jefferson Boulevard
Warwick, RI 02888

Kelly Trainor
US Department of Justice
Antitrust Division
Telecommunications Task Force
1401 H Street, NW, Suite 8000
Washington, DC 20530

*HAND DELIVERED

Vivian Lee
Vivian Lee

TAB A

Before the
Federal Communications Commission
Washington, D.C. 20554

RECEIVED
DEC 17 2001

In the Matter of	)	
	)	
Application by Verizon for Authorization	)	
Under Section 271 of the Communications	)	
Act to Provide In-Region, InterLATA	)	CC Docket No. 01-324
Services in the State of Rhode Island and	)	
Providence Plantations	)	
	)	

DECLARATION OF CHRIS FRENTRUP
ON BEHALF OF WORLDCOM, INC.

Based on my personal knowledge and on information learned in the course of my duties, I, Chris Frentrup, declare as follows:

I. INTRODUCTION AND SUMMARY

1. My name is Chris Frentrup. I am employed by WorldCom, Inc. ("WorldCom") as a Senior Economist in the Public Policy Analysis Group of the Federal Advocacy organization. In that position, I am responsible for analyzing economic issues relating to telecommunications industry regulation and public policy, and assisting in the development and advocacy of WorldCom's public policy positions. I have participated in the development and advocacy of the HAI Model, a model used to estimate telecommunications network costs. I also have worked extensively on the assessment of local exchange carrier productivity in the Commission's price cap proceedings.

2. The purpose of my Declaration is to demonstrate that Verizon's current unbundled switching rates in Rhode Island are not based on total element long run incremental

cost ("TELRIC"), despite Verizon's claims to the contrary in its recently filed section 271 application. See Verizon-Rhode Island Brief at 89. In addition, I will show that the inputs used to set Verizon's loop rates are not compliant with TELRIC principles, and thus that those rates are also excessive.

3. Concerning switching rates, many of the inputs used by Verizon in setting its port and end office switching usage rates are not consistent with TELRIC. Several of these inconsistencies were identified by the Rhode Island Public Utility Commission ("the PUC") in Order No. 16793.[1] As noted in that Order, Verizon used unreasonably high switch materials and installation costs, and applied only the discounts associated with growth switches, to determine switching costs. These errors greatly overstated the cost of switching. Apparently recognizing that these inputs resulted in rates that exceeded any reasonable bound of TELRIC, Verizon agreed to cut switching usage rates to match the level that Verizon proposed in Massachusetts. However, Verizon did not cut its rate for the switch port.

4. Even with these proposed switch usage reductions, Verizon's total cost of switching remains unreasonably high. At $4.15, Verizon's port rate in Rhode Island is about twice the current rates in New York and Massachusetts and four times the rates in Vermont and New Hampshire. Since the port and switch usage rates in Rhode Island were initially set using the same model and inputs, any errors that justify a cut in the switch usage rate apply equally well to the port rate. The combined effect of the port and switch usage rates leaves purchasers of unbundled network elements ("UNEs") paying a price for switching that is above TELRIC, and

1 See In re: Review of Bell Atlantic-Rhode Island TELRIC Study, Docket No. 2681, Report and Order No. 16793 (R.I. Pub. Util. Comm'n November 18, 2001), VZ-RI App. F., Tab 34 ("PUC Order No. 16793"). This Order may also be downloaded at http://www.ripuc.state.ri.us/order/pdfs/VRI2681TELRICord16793.pdf.

that is above the current rates in New York and Massachusetts, even after allowing for costs differences between the states.

5. The loop rates in Rhode Island were set using a number of inputs that are inconsistent with TELRIC. These inputs include the use of only fiber in the feeder, the use of other than GR-303 compliant digital loop carrier ("DLC"), low structure sharing percentages, and low fill factors. Use of these unreasonable inputs inflates the loop rates. The PUC has determined that these inputs should be changed, but has allowed Verizon to retain its high loop rates until the PUC completes a new cost case that will not even be filed before the earlier of 30 days after Verizon receives section 271 authority in Rhode Island or May 1, 2002.[2] It is uncertain when this proceeding would be completed, but it should be noted that the PUC took four years to adopt the inadequate UNE rates in this application. A similar delay would further harm competition both by leaving in place excessive rates and by yielding rates at the conclusion of the proceeding that would not be in line with the costs that would then exist.

6. Verizon's switching rates in Rhode Island remain above TELRIC and above the rates in New York and Massachusetts, even after allowing for cost differences between the states. Once New York completes its current review of UNE rates – and an Administrative Law Judge's ("ALJ's") recommended decision currently before the New York Public Service Commission substantially cuts the UNE rates in New York – the Rhode Island rates will be even further outside a reasonable range of TELRIC. In addition, Verizon's loop rates are set using inputs that are not consistent with TELRIC principles. The Commission should reject Verizon's application until Verizon's rates are corrected in line with the revised rates from the New York

2 Id. at 76.

ALJ's recommended decision, or with the express requirement that any subsequent decrease in UNE rates in New York will be adopted in Rhode Island rates.

II. VERIZON'S INITIAL UNE RATES FOR SWITCHING IN RHODE ISLAND WERE UNREASONABLY HIGH AND BASED ON FLAWED INPUTS

7. Verizon initially set its switching rates using the Switching Cost Information System ("SCIS") model. In its review of the resulting rates, the PUC correctly identified several problems with the inputs that Verizon used in that model. First, the switch material costs used by Verizon in the SCIS model were significantly higher than other switch material costs introduced in the state record. In fact, the PUC required Verizon to show, in future TELRIC filings, why those other switch material costs should not be adopted.[3] Despite recognizing the excessive nature of the switch material costs, however, the PUC did not require Verizon to immediately revise its UNE switching rates to reflect the correct material costs.

8. This error was further compounded by Verizon's failure to use the appropriate discount from the list price for the switch. Verizon used only the discount reflected in its contracts for purchases of growth switches. In the federal Universal Service proceeding, the Commission determined that the appropriate discount for TELRIC purposes was the discount for purchases of new switches.[4] While some states have used the new switch discount exclusively, most states have set UNE switching rates based on an average of the new and growth switch discounts.[5] The PUC determined that the appropriate discount would be based on

3 Id. at 36.

4 See Federal-State Joint Board on Universal Service and Forward-Looking Mechanisms for High Cost Support for Non-Rural LECs, CC Docket Nos. 96-45, 97-160, Tenth Report & Order, 14 FCC CD 20156 (1999) at ¶ 317.

5 Of the states in which the Bell Operating Company has received 271 approval, only Missouri used solely growth discounts in determining switch costs.

90 percent new and 10 percent growth switches, but the PUC then declined to require Verizon to revise its rates immediately to reflect this more appropriate discount.[6]

9. In addition to these sources of inflated switch material costs, Verizon also overstates the costs of installing the switches. Verizon added 62.41% of the material costs of the switch to cover installation costs, based on its own experience in 1995. These installation costs reflected Verizon's practice in Rhode Island of installing its own switches, rather than the more common practice of having the switch vendor handle the installation. Recognizing that this installation factor is overstated, the PUC ordered Verizon to supply in future TELRIC filings the installation factors for all Verizon companies, to allow the PUC to assess the reasonableness of the factor used.[7] Despite this concern over the correctness of the installation factor used by Verizon, the PUC did not require Verizon to revise its switch installation factor.

10. Even if Verizon had correctly determined the material costs of the switch, its use of this inflated installation factor would overstate switch costs. Of course, as shown supra, the switch material costs are overstated, which means that determining installation costs by applying a factor to those inflated material costs will further overstate the switch costs. Thus, Verizon's costs of installing switches are overstated in two ways – applying a factor that is too large to a base of materials costs that is too large. Despite acknowledging these facts, the PUC has not required Verizon to correct these errors before giving its section 271 endorsement.

11. Unfortunately, we are unable to quantify the effect of correcting these errors. Verizon has not provided in the record in this proceeding the electronic versions of its

6 See PUC Order No. 16793 at 35.
7 Id. at 36.

cost models, nor of the inputs it used in those models. Without access to that information, we cannot provide revised cost outputs from the model.

III. VERIZON'S PROPOSED REDUCTION IN SWITCH USAGE RATES DOES NOT MAKE ITS SWITCHING RATES TELRIC-COMPLIANT

12. In apparent recognition of the fact that its switching rates were excessive for the reasons discussed above, Verizon agreed to reduce its switch usage rates to the rates that it has proposed in Massachusetts. However, these reductions are not sufficient to bring Verizon's switching rates down to TELRIC levels.

13. As an initial matter, Verizon has made no showing that its offered switch usage reduction is equivalent to the reduction that would occur were it to correct the problems identified by the PUC. Nor has it made available to the Commission or other interested parties in this proceeding the inputs and SCIS model, to allow a determination of the effect of correcting those problems. Until it does so, the correctness of the switch usage rate must remain mere speculation.

14. Furthermore, Verizon has made no adjustment to its switch port rate. The switch usage and port rates were set using the same model and inputs; any error that resulted in excessive usage rates would also have caused excessive port rates. The justification given by Verizon for not also cutting its port rate is that a loop and a port will always be bought together, and the sum of the loop and port rates in Rhode Island is lower than the sum of those rates in New York, after allowing for cost differences.[8] This alleged justification is irrelevant. The loop and port rates were set using completely different cost models, so there is no connection between

8 See In re: Unbundled Local Switching Rates Verizon-Rhode Island's Section 271 Compliance Filing, Docket No. 3363, Order No. 16799, (R.I. Pub. Utils. Comm'n November 28, 2001) at 4. The order can be downloaded at

the cost levels produced for loops and switches. The loop rates must be shown to be at TELRIC levels on their own, and the switch usage and port rates must be shown to be at TELRIC levels on their own.

15. As can be seen in Table 1, the total switching rates – port plus the adjusted usage rate – are in fact higher in Rhode Island than they are in either New York or Massachusetts, even after allowing for the cost differences among the states as measured by the Commission's Synthesis Model.[9] For example, for the total cost of switching, i.e., the sum of usage and port, Rhode Island costs are 10.4 percent to 16.5 percent lower than in New York, while rates in Rhode Island are 15.3 percent higher than in New York.[10] The excessive level of the switching rates is even more apparent when Rhode Island rates are compared to the rates recommended by the ALJ in New York – Rhode Island rates are almost 134 percent higher than New York rates, when they should be lower. Similarly, the total switching rate in Rhode Island is 19 percent above the Massachusetts rate, even though Rhode Island costs are less than 5 percent above Massachusetts costs. Clearly, even though Verizon has cut its switch usage rates, its excessive port rate means that UNE customers will still be paying rates that are well above TELRIC levels.

---

http://www.ripuc.state.ri.us/order/pdfs/VRI271-UNEord16799.pdf.

9 The Commission has previously determined whether UNE rates in a state fall within a "reasonable range of TELRIC" by comparing the relationship between the rates and the costs as measured by the Synthesis Model, which was developed by the Commission for the Universal Service proceeding. The Commission accepted New York and Texas rates as TELRIC-compliant in the section 271 proceedings for those two states. Since those two states were approved, the Commission has accepted other states' UNE rates as TELRIC-compliant so long as the other state's UNE rates were not above New York's or Texas' rates by more than were the Synthesis Model's costs for the states. See, e.g., Joint Application by SBC Communications Inc., Southwestern Bell Tel. Co., and Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma, CC Docket No. 00-217, Memorandum Opinion and Order, 16 FCC CD 6237, 6277 (2001) at ¶ 84.

10 The percent difference depends on whether the comparison is with raw or adjusted Synthesis Model (SM) costs. The raw SM costs are taken directly from the model results from the FCC. The adjusted results remove $3.62 per line of retail overhead, and re-apportion the remaining wholesale overhead among all rate elements, rather than

Table 1

	Port	Usage	Port + Usage
Raw USF SM Cost			
RI	0.7622	1.1872	1.9494
MA	0.8002	1.0648	1.8650
NY	0.8055	1.3694	2.1749
Adjusted USF SM Cost			
RI	0.9982	1.5547	2.5529
MA	1.0816	1.4394	2.5211
NY	1.1319	1.9243	3.0562
UNE Rates			
RI	4.15	5.11	9.26
MA	2.00	5.78	7.78
NY	2.50	5.53	8.03
NY ALJ RD	1.87	2.09	3.96
Ratio of RI to:			
NY Raw USF SM Cost	94.6%	86.7%	89.6%
NY Adjusted USF SM Cost	88.2%	80.8%	83.5%
MA Raw USF SM Cost	95.3%	111.5%	104.5%
MA Adjusted USF SM Cost	92.3%	108.0%	101.3%
NY UNE Rates	166.0%	92.3%	115.3%
ALJ RD UNE Rates	221.9%	244.6%	233.9%
MA UNE Rates	207.5%	88.4%	119.0%
TELRIC Compliance Test			
RI compared to NY Rates			
Raw USF SM Cost	Fail	Fail	Fail
Adjusted USF SM Cost	Fail	Fail	Fail
RI compated to NY ALJ RD Rates			
Raw USF SM Cost	Fail	Fail	Fail
Adjusted USF SM Cost	Fail	Fail	Fail
RI compared to MA Rates			
Raw USF SM Cost	Fail	Pass	Fail
Adjusted USF SM Cost	Fail	Pass	Fail

IV. LOOP RATES IN RHODE ISLAND ARE NOT TELRIC-COMPLIANT

16. In addition to the problems identified with the switching costs supra, there are a number of problems with the inputs used to determine loop rates. Again, it is not possible

loading them only on the loop as the Synthesis Model does.

to quantify the effect of these inputs on loop rates, because Verizon has not provided in its 271 filing the cost models and precise inputs used to develop loop rates. However, it is clear that these changes would lower loop costs. Until these changes are implemented, Verizon's loop rates remain above TELRIC levels.

17. First, Verizon uses only fiber cable in the feeder. While this often will be the lowest cost, most efficient forward-looking technology, in some cases, primarily those situations in which customers are located close to the central office, copper feeder may be cheaper. The Commission's Synthesis Model and other states' loop models all use at least some copper feeder.

18. Verizon also fails to use GR-303 compliant digital loop carrier ("DLC") when it uses fiber feeder. As the PUC rightly determined, GR-303 compliant DLC is the forward-looking technology, and should be employed in any cost model used to set TELRIC UNE rates.[11] Verizon's loop cost model used no GR-303 DLC, instead relying on the older universal DLC. Verizon must revise its loop rates to reflect GR-303 DLC before its UNE loop rates can be consistent with TELRIC principles. Use of GR-303 DLC is doubly important because it will lower both recurring and non-recurring costs by enabling electronic loop reassignment.

19. Similarly, Verizon's loop rates do not reflect the forward-looking amount of structure sharing that would occur in an efficient network. Rather than recognizing the incentives for greater structure sharing that would occur in a more competitive market, Verizon has apparently relied on its historical sharing levels. The PUC directed that future TELRIC

11 See PUC Order No. 16793 at 43.

studies should reflect sharing that could be achieved, but allowed Verizon to set its rates based on its current levels of structure sharing.[12] The amount of structure sharing must be adjusted to be consistent with TELRIC principles and UNE loop rates recomputed.

20. Finally, the fill factors assumed by Verizon for fiber and copper cable are unreasonably low, resulting in overstated loop costs. The PUC determined that Verizon's fill factors were too low, and required the use of alternative fill factors based on its staff's analysis in any future TERLIC compliance filing.[13] Those fill factors have not yet been incorporated into Verizon's loop rates. Thus, Verizon's loop rates are not compliant with TELRIC principles.

21. As in the case of the switching rates, we have not been provided access in this proceeding to the cost models or inputs used to set the loop rates. Without this information, we are unable to quantify the effect of changing these inputs. However, it is certain that correcting these errors would lower loop rates.

V. CONCLUSION

22. Verizon's switching and loop UNE rates exceed TELRIC levels and are not reasonable. Even though Verizon plans to cut its switch usage rates to the level proposed for those rates in Massachusetts, the total cost of switching, which includes both usage and port, remains well above TELRIC levels. The PUC has itself identified specific inputs used in setting loop and switching rates that make the rates too high. Until these inputs are corrected and rates reduced to appropriate levels, the Commission should reject Verizon's section 271 application.

12 Id. at 44-5.
13 Id. at 51.

23. This concludes my Declaration on behalf of WorldCom.

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 17, 2001.

Chris Frentrup

DOCKET NO. 01-324 Attachment A

DOCUMENT OFF-LINE

This page has been substituted for one of the following:

o An oversize page or document (such as a map) which was too large to be scanned into the ECFS system.

o Microfilm, microform, certain photographs or videotape.

o Other materials which, for one reason or another, could not be scanned into the ECFS system.

The actual document, page(s) or materials may be reviewed by contacting an Information Technician at the FCC Reference Information Center, at 445 12th Street, SW, Washington, DC, Room CY-A257. Please note the applicable docket or rulemaking number, document type and any other relevant information about the document in order to ensure speedy retrieval by the Information Technician

1 CD ROM